

BANKRUPTCY

PRO BONO PROJECT



APPENDIX

2002-2003

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Contents

I.	Chapter 7 Timeline	1
II.	CRLS Guidelines	3
III.	Schedule of Filing Fees	5
IV.	Form - To Pay Filing Fees in Installments	6
V.	Federal Exemptions Under 11 U.S.C. § 522	7
VI.	State Exemptions Under New Jersey Law	9
VII.	Other Federal Exemptions	11
VIII.	Nondischargeability Provisions	12
IX.	Form Letter - Denial of services to file a Chapter 13 petition	15
X.	Commonly Asked Questions	16
XI.	Filing Checklist	20
XII.	Pro Bono Cover Sheet for Filing	21
XIII.	Chapter 7 Petition and Schedules Proof of Claim Form	
XIV.	Evaluation Form	

Chapter 7 Timeline

1. Conduct the initial interview.
2. Schedule a follow-up interview with the client and the students with or without the team attorney. This may be by telephone call, or an actual meeting at the attorney's office or at the Pro Bono Clinic. It is preferable that this next contact occur within 2 weeks of the initial interview. This insures that the case is moving forward, and allows time for the team to check the information that it has gathered and to determine if anything else is needed. It also gives the client time to gather any requested documents, and to think about the information already given.
3. Complete and hand in to the Pro Bono Coordinator the interview evaluation form. Both students and the volunteer attorneys need to complete these forms.
4. Prepare a draft Chapter 7 petition, schedules and creditor matrix. This should be done, at least in part by the second interview, for the supervising attorney's review and to identify any incomplete portions.
5. Arrange an appointment with the client to review and sign the Chapter 7 petition.
6. Counsel client about post-petition responsibilities and explain what happens next with their case. Highlight the importance of **prompt** post-petition payments to their landlord and the utility companies.
7. Promptly file the Chapter 7 petition, schedules, creditor matrix and pro bono cover sheet with the Clerk of the United States Bankruptcy Court, U.S. Post Office & Courthouse Bldg., P.O. Box 2067, Camden, New Jersey 08101-2067. You will need 7 copies of the Petition, the original plus 4 copies for the Clerk's Office, and 2 copies for you to get time-stamped for return to the attorney's file and to the client. If the attorney uses electronic filing, check with them prior to making your copies. **If you only file the petition, then the schedules and creditor matrix must be filed no later than 15 days thereafter, otherwise the petition may be dismissed.**
8. Draft notice of bankruptcy filing to those creditors identified as "harassing/problem creditors" or one that requires immediate notice in order to cease harmful collection activity, e.g. eviction, utility shut-off, judgment entry.
9. Within 2-3 weeks of filing the petition, be alert for notice from the U.S. Trustee scheduling the § 341(a) First Meeting of Creditors. Notice

will be sent to the client, the attorney of record, and the creditors listed on the matrix. Schedule a meeting by telephone or in person with the client to discuss the preparation and attendance at this meeting. 3L students should attend these meetings.

10. Approximately 20-40 days after the Petition is filed, attend the § 341(a) First Meeting of Creditors with the client. Briefly review post-petition issues and advise the client of the next steps in their case.

11. Be aware of important deadlines tied to the scheduling of the § 341(a) meeting: Objections to Exemptions must be filed by the creditor(s) no later than 30 days after the conclusion of the meeting. Complaints to determine dischargeability must be filed no later than 60 days after the conclusion of the meeting. Even though this deadline applies to creditors, **it is good practice to file any complaints to determine dischargeability by the debtor also before the expiration of the 60 day period.**

12. Draft complaint to determine dischargeability, motion for lien avoidance, or other court documents or amendments to debtor's schedules as needed. **Amendments to debtor's petition, schedules, list, or statement may be done at any time before the case is closed.**

13. As the time for discharge approaches, review any issues for discussion with client such as reaffirmations or redemptions of credit. **These papers must be filed not more than 30 days following the entry of an order granting or denying a discharge, with not less than 10 days notice to the debtor and the trustee.**

14. Approximately four to six months after the petition was filed, provide client with discharge notice and discuss post-discharge issues with client. Send closing letter to client. Send status letter to referral agency with copy to the Rutgers Project.

CRLS Guidelines

To understand the types of clients that will commonly be referred to the Project, it is helpful to understand the eligibility criteria utilized by Legal Services in determining the client's qualifications for pro bono legal assistance, since Legal Services provides the screening service for the Project.

Legal Services is prohibited from representing individuals whose family income exceeds the values indicated on the table below. For referral purposes, the Rutgers Bankruptcy Pro Bono Project accepts up to 175% of the national poverty level.

TABLE OF MAXIMUM INCOME LEVELS

Family Size	Max Gross Weekly Income	Max Gross Monthly Income	Max Gross Annual Income 125%	Max Gross Annual Income 175%	2002 Poverty Guideline
1	\$213.00	\$ 923.00	\$11,075.00	\$15,505.00	\$ 8,860.00
2	287.00	1,244.00	14,925.00	20,895.00	11,940.00
3	361.00	1,565.00	18,775.00	26,285.00	15,020.00
4	435.00	1,885.00	22,625.00	31,675.00	18,100.00
5	509.00	2,206.00	26,475.00	37,065.00	21,180.00
6	583.00	2,527.00	30,325.00	42,455.00	24,260.00
7	657.00	2,848.00	34,175.00	47,845.00	27,340.00
8	731.00	3,169.00	38,025.00	53,235.00	30,420.00
9	805.00	3,490.00	41,875.00	58,625.00	33,500.00
10	879.00	3,810.00	45,725.00	64,015.00	36,580.00

Legal Services may consider the existence of one or more other factors in justifying a waiver of the maximum income limitations. These factors include: (1) the applicant's current income prospects, taking into account seasonal variations in income; (2) medical expenses; (3) commitment of the applicant's gross income primarily to medical/nursing income expenses; (4) fixed debts and obligations, including unpaid state, federal and local taxes, and court-ordered alimony or child support actually being paid; (5) child care, transportation and other expenses necessary for employment; (6) expenses associated with age or physical infirmity of resident family members; and (7) other significant factors related to financial liability to afford legal assistance, in the discretion of the Program Administrator.

In determining the eligibility of an applicant whose income does not exceed the

MIL, the following factors are also taken into consideration:

1. If the applicant's current income prospects, taking into account seasonal variations in income, are likely to exceed the MIL, the applicant may be determined ineligible in the discretion of the Director.
2. Where private representation is available at a low cost with respect to the particular matter in which assistance is sought, the applicant may be determined ineligible in the discretion of the Director.
3. Where the consequences for the individual are insignificant if legal assistance is denied, the applicant may be determined ineligible in the discretion of the Director.
4. Where there are assets in existence which are available to the applicant and they are in excess of the asset ceiling set in Section VII, the application shall be denied.
5. Where there is a determination either by admission or by a prior administrative or judicial decision that the applicant refuses or is unwilling, without good cause, to seek or accept suitable employment, the application for services will be denied.

Legal Services also evaluates the client's eligibility in terms of certain "asset ceilings". If the family unit's total includeable assets exceed said limits then the applicant's request for assistance will be denied, subject to certain waiver provisions. The asset ceilings, as established by the Board of Directors of Legal Services take into consideration the economy of the particular county and the cost of living for low-income persons so as to ensure the availability of Legal Services' limited resources and services to those in the greatest need.

The maximum allowable equity value of liquid assets, as defined by CRLS, which an applicant and/or any resident member of the family unit may own shall not exceed:

Seniors - \$8,000 for family of one; \$2,000 for each additional family member;

Others - \$5,000 for family of one; \$1,000 for each additional family member.

The Director is vested with the authority to waive the ceilings on allowable assets in unusual or extremely meritorious situations.

If a client who had been determined to be eligible subsequently becomes ineligible because of increased income and/or receipt or availability of assets or liquidation of formerly non-liquid assets and the reason for the ineligibility is sufficiently likely to continue, then the client will be notified that he/she no longer qualifies for the CRLS services and the reason for the disqualification, if it will not act to prejudice the client's case and is not inconsistent with an attorney's professional responsibilities. The notification will give the client a reasonable time to retain private counsel.



UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY
 SCHEDULE OF FILING FEES

ITEM	FEE
CHAPTER 7 PETITION	\$ 200.00
CHAPTER 13 PETITION	\$ 185.00
CHAPTER 11 PETITION	\$ 830.00
CHAPTER 9 PETITION	\$ 830.00
CHAPTER 12 PETITION	\$ 230.00
ANCILLARY PETITION UNDER 11 USC § 304 (Filing fee: \$500; additional fee set by Judicial Conference: \$30 - noticing.)	\$ 530.00
AMENDMENTS TO DEBTOR'S SCHEDULE OF CREDITORS (AFTER NOTICE TO CREDITORS)	\$ 20.00
FILING A MOTION TO TERMINATE, ANNUL, OR MODIFY STAY, TO WITHDRAW THE REFERENCE, OR TO COMPEL ABANDONMENT OF PROPERTY OF THE ESTATE	\$ 75.00
CONVERSION OF CHAPTER 7 OR 13 TO CHAPTER 11 ON REQUEST OF DEBTOR	\$ 645.00
NOTICE OF CONVERSION TO CHAPTER 7 UNDER 11 USC §§ 1208(a) OR 1307(a). MOTION TO CONVERT TO CHAPTER 7 (INCLUDING COMBINED WITH OTHER RELIEF) .	\$ 15.00
FILING OF COMPLAINT COMMENCING ADVERSARY PROCEEDING. (If United States or debtor is plaintiff, no fee is required. If case trustee or debtor-in-possession is plaintiff, fee is payable only from estate and to extend there is any estate realized.)	\$ 150.00
FILING A MOTION TO REOPEN	CHAPTER 7 OR 13 \$ 155.00 CHAPTER 11 \$800.00 CHAPTER 9 \$800.00 CHAPTER 12 \$200.00
FILING AND DOCKETING NOTICE OF APPEAL OR CROSS APPEAL	\$ 105.00
FILING MOTION FOR LEAVE TO APPEAL (IF LEAVE IS GRANTED, \$100 DOCKETING FEE DUE)	\$ 5.00
RETRIEVAL OF RECORD FROM FEDERAL RECORDS CENTER OR OTHER STORAGE LOCATION	\$ 35.00
REPRODUCING ANY RECORD OR PAPER (PER PAGE)	\$ 0.50
CERTIFICATION OF ANY RECORD OR DOCUMENT	\$ 7.00
EXEMPLIFICATION OF ANY RECORD OR DOCUMENT	\$ 14.00
MICROFICHE SHEET OF FILM OR MICROFILM JACKET COPY OF ANY COURT RECORD	\$ 4.00
REPRODUCTION OF MAGNETIC TAPE OR CASSETTE REEL-TO-REEL	\$ 20.00
SEARCH OF RECORDS (PER NAME)	\$ 20.00
REGISTERING A JUDGMENT FROM ANOTHER DISTRICT	\$ 30.00
CHECK RETURNED FOR LACK OF FUNDS	\$ 35.00
PACER (PER MINUTE) via modem/internet	\$ 0.60/0.07
DIVISION OF JOINT CASE (HUSBAND/WIFE) FILED UNDER 11 U.S.C. SECTION 302 AT REQUEST OF DEBTORS - ONE-HALF OF CURRENT FILING FEE FOR CHAPTER UNDER WHICH JOINT CASE WAS COMMENCED.	½CURRENT

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

APPLICATION AND ORDER TO PAY FILING FEE IN INSTALLMENTS

Case No. _____

In re: _____ Chapter: _____
(Debtor)

APPLICATION TO PAY FILING FEES IN INSTALLMENTS

In accordance with Fed. R. Bankr. R. 1006, application is made for permission to pay the filing fee on the following terms:

\$ _____ with the filing of the petition, and the balance of
\$ _____ in _____ installments, as follows:

\$ _____ on or before _____
\$ _____ on or before _____
\$ _____ on or before _____

I certify that I am unable to pay the filing fee except in installments. I further certify that I have not paid any money or transferred any property to an attorney or any other person for services in connection with this case or in connection with any other pending bankruptcy case and that I will not make any payments or transfer any property for services in connection with the case until the filing fee is paid in full.

Date: _____

Applicant

(Signature)

Address of Applicant

ORDER

IT IS ORDERED that the debtor pay the filing fee in installments on the terms set forth in the foregoing application.

IT IS FURTHER ORDERED that until the filing fee is paid in full the debtor shall not pay, and no person shall accept, any money for services in connection with this case, and the debtor shall not relinquish, and no person shall accept, any property as payment for services in connection with this case.

BY THE COURT

Date: _____

United States Bankruptcy Judge

**FEDERAL EXEMPTIONS UNDER
11 U.S.C. § 522**

Type of Property	Amount of Exemption/ Type of Property	Statute
Aggregate interest in real or personal property, or in a cooperative, used by debtor or his dependent as a residence, or in a burial plot for debtor or a dependent	\$17,425	522(d)(1)
Interest in one motor vehicle	\$2,775	522(d)(2)
Household furnishings, household goods, wearing apparel, appliances, books, animals, crops, musical instruments held primarily for personal, family or household use of debtor or dependent	\$450 in any particular item \$9,300 in aggregate value	522(d)(3)
Aggregate interest in jewelry held primarily for personal, family, or household use of debtor or dependent	\$1,150	522(d)(4)
"WILD CARD"	\$925 plus up to \$8,725 of any unused amount from (d)(1)	522(d)(5)
Aggregate interest in any implements, professional books, tools of the trade of the debtor or dependent	\$1,750	522(d)(6)
Unmatured life insurance contract owned by the debtor, other than a credit life insurance contract	100%	522(d)(7)
Aggregate interest in accrued dividend or interest under, or loan value of any unmaturred life insurance contract owned by the debtor under which debtor or dependent is the insured	\$9,300 less any amount transferred under § 542(d)	522(d)(8)
Professionally prescribed health aids for debtor or dependent	100%	522(d)(9)
Debtor's right to receive a social security benefits, unemployment compensation, or a local public assistance benefit	100%	522(d)(10)(A)
Debtor's right to receive a veteran's benefit	100%	522(d)(10)(B)

Type of Property	Amount of Exemption/ Type of Property	Statute
Debtor's right to receive a disability, illness, or unemployment benefit	100%	522(d)(10)(C)
Debtor's right to receive alimony, support, or separate maintenance	to the extent reasonably necessary for the support of the debtor and any dependant of debtor	522(d)(10)(D)
Debtor's right to receive a payment under a stock bonus, pension, profit sharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service	to the extent reasonably necessary for the support of the debtor and any dependant of debtor, unless--(i) such plan was establ. by or under auspices of an insider that employed the debtor at the time the debtor's rights under such plan or contract arose; (ii) such payment is on account of age or length of service; and (iii) such plan or contract does not qualify under §401(a), 403(a), 403(b), or 408 of the IRC of 1986	522(d)(10)(E)
Debtor's right to receive, or property that is traceable to an award under a crime victim's reparation law	100%	522(d)(11)(A)
Debtor's right to receive, or property that is traceable to a payment on account of the wrongful death of an individual of whom the debtor was a dependent	to the extent reasonably necessary for the support of the debtor and any dependent of the debtor	522(d)(11)(B)
Debtor's right to receive or property that is traceable to a payment under a life insurance contract that insured an individual of whom debtor was a dependant on the date of such individual's death	to the extent reasonably necessary for the support of the debtor and any dependent of the debtor	522(d)(11)(C)
Debtor's right to receive or property that is traceable to a payment for personal bodily injury of the debtor or an individual of whom the debtor is a dependant	\$17,425, not including pain and suffering or compensation for actual pecuniary loss	522(d)(11)(D)
Debtor's right to receive or property that is traceable to a payment in compensation of loss of future earnings of the debtor or an individual to whom the debtor is/was a dependant	to the extent reasonably necessary for the support of the debtor and any dependent of the debtor	522(d)(11)(E)

**STATE EXEMPTIONS UNDER
NEW JERSEY LAW**

Type of Property	Amount of Exemption	Statute Creating Exemption
Wearing apparel	no limit	N.J.S.A. 2A:17-19
Household goods & furniture	\$1,000	N.J.S.A. 2A:26-4
Goods, chattels, share of stock & personal property of any kind	\$1,000	N.J.S.A. 2A:17-19
Wages, earnings, salary, income & profits	100% if less than \$48 per week; 90% if >\$48 per week & <\$7,500 per year, no specific exemption if >\$7,500 per year. (Certain support claims excepted).	N.J.S.A. 2A:17-50, 17-56, 17-57
Unemployment compensation benefits	no limit	N.J.S.A. 43:21-15(c), 21-53
Old age assistance payments	no limit	N.J.S.A. 44:7-35
Workmen's compensation benefits	no limit	N.J.S.A. 34:15-29
Military pay, allowances & benefits of members of state militia	no limit	N.J.S.A. 38A:4-8
Health & disability insurance proceeds & avails	no limit	N.J.S.A. 17B:24-8
Fraternal Benefit Society benefits	no limit	N.J.S.A. 17:44A-19
Annuity contract benefits	\$500 per month	N.J.S.A. 17B:24-7
Proceeds of life insurance policies payable to persons other than the insured, the person effecting the insurance, or the executors or administrators of such insured or the person so effecting such insurance	no limit	N.J.S.A. 17B:24-6

Type of Property	Amount of Exemption	Statute Creating Exemption
Group life or group health insurance policies & proceeds	no limit	N.J.S.A. 17B:24-9
Civil defense injury & death benefits	no limit	N.J.S.A. App.A:9-57.6
City Board of Health employees pension benefits	no limit	N.J.S.A. 43:18-12
Street & Water Dept. employees pension benefits	no limit	N.J.S.A. 43:19-17
Prison officers retirement benefits	no limit	N.J.S.A. 43:7-13(e)
Municipal employees retirement & pension benefits	no limit	N.J.S.A. 43:13-9, 13-22.34, 13-22.60, 13-37.5, 13-44
County employees retirement & pension benefits	no limit	N.J.S.A. 43:10-14, 10-18.22, 10-18.71, 10-57
Police & Fireman's retirement & pension benefits	no limit	N.J.S.A. 43:16-7, 16A-17
Alcoholic Beverage Law Enforcement Officers pension fund benefits	no limit	N.J.S.A. 43:8A-20
Judicial Retirement Systems benefits	no limit	N.J.S.A. 43:6A-41
School district employees retirement & pension benefits	no limit	N.J.S.A. 18A:66-116
Teacher's retirement & pension benefits	no limit	N.J.S.A. 18A: 66-116
State Police retirement & pension benefits	no limit	N.J.S.A. 53:5A-45
Specific partnership property	100% of partner's interest, except on a claim against the partnership	N.J.S.A. 42:1-25
Crime victim's compensation	100%	N.J.S.A. 52:4B-18, 30
Qualifying Trust	100%	N.J.S.A. 25:2-1

OTHER FEDERAL EXEMPTIONS

Type of Property	Statute
Foreign Service Retirement and Disability Payments	22 U.S.C. § 1104
Social Security Payments	42 U.S.C. § 407
Injury or Death Compensation Payments from War Risk Hazards	42 U.S.C. § 1717
Wages of Fishermen, Seamen and Apprentices	46 U.S.C. § 601
Civil Service Retirement Benefits	5 U.S.C. § 729, 2265
Longshoremen's and Harbor Worker's Compensation Act Death and Disability Benefits	33 U.S.C. § 916
Railroad Retirement Act Annuities and Pensions	45 U.S.C. § 228(L)
Veterans Benefits	45 U.S.C. § 352(E)
Special Pensions Paid to Winners of the Congressional Medal of Honor	38 U.S.C. § 3101
Federal Homestead Lands on Debts Created Before Issuance of the Patent	43 U.S.C. § 175

NONDISCHARGEABILITY PROVISIONS

Statute	Debts Excepted from Discharge	Comments/Cases
523(a)(1)(A)	administrative taxes and other taxes as provided in 507(a)(2) & (8)	
523(a)(1)(B)	taxes with respect to returns not filed or filed late but within two years of the petition	
523(a)(1)(C)	taxes with respect to fraudulent returns or evasions of the tax	In re Fegeley, 118 F.3d 979 (3d Cir. 1997)
523(a)(2)(A)	money, property, services, or credit changes obtained by false pretenses, false representations or actual fraud	Grogan v. Garner, 498 U.S. 279 (1991); Field v. Mans, 116 S. Ct. 437 (1995); In re Cohen, 106 F.3d 52 (3d Cir. 1997)
523(a)(2)(B)	money, property, services, or credit changes obtained by a materially false written statement respecting the debtor's financial condition published with the intent to deceive and relied upon by the creditor	In re Segal, 57 F.3d 342 (3d Cir. 1995); In re Cohn, 54 F.3d 1108, 1114 (3d Cir. 1995)
523(a)(2)(C)	consumer debts owed to a single creditor for more than \$1,000 in luxury goods or services or cash advances incurred within 60 days before the order for relief	In re Poskanzer, 143 B.R. 991 (Bankr. D.N.J. 1992)
523(a)(3)	debts not listed or scheduled in time to permit a proof of claim to be filed with respect to debts covered by 523(a)(2), (4), or (6)	Judd v. Wolfe, 78 F.3d 110 (3d Cir. 1996)
523(a)(4)	debts for fraud or defalcation while acting in a fiduciary capacity, embezzlement or larceny	Docteroff, 133 F.3d 210 (3d Cir. 1997); Goldberg v. NJ Lawyers' Fund for Client Protection, 932 F.2d 273 (3d Cir. 1991)
523(a)(5)	alimony, maintenance or support to a spouse or child unless assigned to another entity or not actually alimony, maintenance or support	In re Gianakas, 917 F.2d 759 (3d Cir. 1990)

Statute	Debts Excepted from Discharge	Comments/Cases
523(a)(6)	debts for willful and malicious injury by the debtor to another entity or its property	Kawaauhau v. Geiger, 118 S.Ct. 974 (1998); In re Conte, 33 F.3d 303 (3d Cir. 1994); In re Wilson, 116 F.3d 87 (3d Cir. 1997)
523(a)(7)	debts for a fine, penalty, or forfeiture payable to and for the benefit of a governmental unit and not compensation for actual pecuniary loss, other than certain tax penalties	Kelly v. Robinson, 479 U.S. 36 (1986); In re Rashid, 210 F.3d 201 (3d Cir. 2000); In re Kent, 190 B.R. 196 (Bankr. D.N.J. 1995)
523(a)(8)	student loans unless they became due more than 7 years ago, not counting time stayed, or if the exception will impose an undue hardship on the debtor	In re Faish, 72 F.3d 298 (3d Cir. 1995); In re Segal, 57 F.3d 342 (3d Cir. 1995)
523(a)(9)	debts for death or personal injury caused by the debtor's unlawful operation of a motor vehicle while intoxicated	Lugo v. Paulsen, 886 F.2d 602 (3d Cir. 1989)
523(a)(10)	debts that were or could have been listed in a prior case of the debtor's in which debtor waived discharge or was denied discharge under certain sections of the code	
523(a)(11)	debts provided in any final judgment or order arising from acts of fraud or defalcation while acting in a fiduciary capacity committed with respect to any depository or insured credit union	
523(a)(12)	debts for malicious or reckless failure to fulfill any commitment by the debtor with respect to FDIRA requirements	
523(a)(13)	restitution orders under title 18	
523(a)(14)	debt incurred to pay a tax that would be nondischargeable under (a)(1)	

Statute	Debts Excepted from Discharge	Comments/Cases
523(a)(15)	debts not of the kind in (a)(5), incurred in a separation or divorce, unless debtor does not have the ability to pay or discharging the debt would result in a benefit to the debtor that outweighs the detriment to a spouse or child of the debtor	
523(a)(16)	debts for fees or assessment that become due after the order for relief to a condominium or cooperative association for the time that the debtor physically occupied the project or rented and received payments from a tenant; pre-petition debts are not protected from discharge	In re Mattera, 203 B.R. 565 (Bankr. D.N.J. 1997)
523(a)(17)	fees imposed by a court for filing a case, motion, complaint, appeal or other court costs	
523(a)(18)	debts owed under state law to a state or municipality that is (A) in the nature of support, and (B) enforceable under part D of title IV of the Social Security Act	Added by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 110 Stat. 2105, PL 104-193 §374 signed into law on August 22, 1996
18 U.S.C. § 3613 Civil Remedies for Satisfaction of an Unpaid Fine	all fines and restitution (as if they were taxes)	These debts are not discharged pursuant to the AntiTerrorism & Effective Death Penalty Act of 1996, Pub.L. No. 104-132, 110 Stat.1214(1996) A fine or restitution imposed under this title is a lien on all property.
37 U.S.C. § 302g(d) and (e)	refund money due where a health care professional accepts a “special pay” bonus while committing to service for one of the armed services and fails to finish the entire commitment	A discharge that is entered < 5 yrs after the termination of the agreement under this section does not discharge the debt under this agreement.

Date

[client's name]
[client's street address]
[city, state, zip code]

RE: Rutgers Bankruptcy Pro Bono Project

Dear [client's name]:

It was my pleasure meeting with you on [weekday, date] in connection with the Rutgers Bankruptcy Pro Bono Project. At that time, you expressed your desire to file for protection under the United States Bankruptcy Code. We discussed your assets and liabilities. You advised me that your current monthly income is substantially greater than your current monthly expenses. According to my notes, your monthly income is [\$X.00] while your monthly expenses are closer to [\$Y.00]. Thus, you have excess disposable monthly income of approximately [\$Z.00].

I advised you that because you have substantial excess monthly income, you are a candidate for a Chapter 13 bankruptcy rather than a Chapter 7 case. As we discussed, there is a possibility that you could pay for an attorney through your plan. Accordingly you do not fit within the parameters of the Project. You should consult an attorney who specializes in Chapter 13 bankruptcy practice. There are many attorneys who specialize in Chapter 13 bankruptcy practice for a minimum fee. You may call the Lawyer Referral Service in your county (a list of numbers is enclosed), or Camden Regional Legal Services at (856) 964-2010 for a list of referral agencies.

I trust this information is of assistance to you. Good luck in the future.

Very truly yours,

[attorney's name]

COMMONLY ASKED QUESTIONS

1. What persons are not eligible for a Chapter 7 discharge?

- ▶ A person who has been granted a discharge in a Chapter 7 case filed within the last six years.
- ▶ A person who has been granted a discharge in a Chapter 13 case filed within the last six years, unless 70 percent or more of the unsecured claims were paid off in the Chapter 13 case.
- ▶ A person who files a waiver of discharge that is approved by the court in the Chapter 7 case.
- ▶ A person who conceals, transfers, or destroys his or her property with the intent to defraud his or her creditors or the trustee in the Chapter 7 case.
- ▶ A person who conceals, destroys, or falsifies records of his or her financial condition or business transactions.
- ▶ A person who makes false statements or claims in the Chapter 7 case, or who withholds information from the trustee.
- ▶ A person who fails to satisfactorily explain any loss or deficiency of his or her assets.
- ▶ A person who refuses to answer questions or obey orders of the bankruptcy court, either in his or her bankruptcy case or in the bankruptcy case of a relative, business associate, or corporation with which he or she is associated.

2. When should both spouses file a joint petition under Chapter 7?

When one or more substantial dischargeable debts are owed by both spouses. If both spouses are liable for a substantial debt and only one spouse files under Chapter 7, the creditor may later attempt to collect the debt from the nonfiling spouse, even if he or she has no income or assets.

3. How does filing under Chapter 7 affect a person's credit rating?

The credit rating of a person who files a Chapter 7 case will get worse. However, some financial institutions openly solicit business from persons who have recently filed under Chapter 7. If there are compelling reasons for filing under Chapter 7 that are not within the debtor's control (such as an illness or an injury), some credit rating agencies may take that into account in rating the debtor's credit after filing.

4. May a person file under Chapter 7 if his or her debts are being administered by a financial counselor?

Yes. A financial counselor has no legal right to prevent anyone from filing under Chapter 7.

5. Are employers notified of Chapter 7 cases?

Employers are not usually notified when a Chapter 7 case is filed. However, the trustee in a Chapter 7 case often contacts an employer seeking information as to the status of the debtor's wages or salary at the time the case was filed. If there are compelling reasons for not informing an employer in a particular case, the trustee should be so informed and he or she may be willing to make other arrangements to obtain the necessary information.

6. Does a person lose all of his or her property by filing under Chapter 7?

Certain property is exempt and cannot be taken by creditors, unless it is encumbered by a valid mortgage or lien. A debtor is usually allowed to retain his or her unsecured exempt property in a Chapter 7 case. A debtor may also be allowed to retain certain secured exempt property.

7. How are secured creditors dealt with in a Chapter 7 case?

Secured creditors are creditors with valid mortgages or liens against property of the debtor. Property of the debtor that is encumbered by a valid mortgage or lien is called secured property. A secured creditor is usually permitted to repossess or foreclose its secured property, unless the value of the secured property exceeds the amount owed to the creditor. After a petition has been filed, a secured creditor must prove the validity of its mortgage or lien and obtain a court order before repossessing or foreclosing on secured property. The debtor should not turn any property over to a secured creditor until a court order has been obtained. The debtor may be permitted to retain or redeem certain secured personal property .

8. How are unsecured creditors dealt with in a Chapter 7 case?

An unsecured creditor is a creditor without a valid lien or mortgage against property of the debtor. If the debtor has nonexempt assets, unsecured creditors may file claims with the court within 90 days after the first date set for the meeting of creditors. The trustee will examine these claims and file objections to those deemed improper. When the trustee has collected all of the debtor's nonexempt property and converted it to cash, and when the court has ruled on the trustee's objections, the trustee will distribute the funds to the unsecured creditors according to the priorities set forth in the Bankruptcy Code.

Administrative expenses, claims for wages, salaries, and contributions to employee benefit programs, claims for the refund of certain deposits, and tax claims, are given priority, in that order, in the payment of dividends by the trustee. If there are funds remaining after the payment of these priority claims, they are distributed pro rata to the remaining unsecured creditors.

9. How can a debtor minimize the amount of money or property that must be turned over to the trustee in a Chapter 7 case?

In a Chapter 7 case the debtor is required to turn over to the trustee only the nonexempt money or property that he or she possessed at the time the case was

filed. Many nonexempt assets of consumer debtors are liquid in nature and tend to vary in size or amount from day to day. The most common nonexempt liquid assets, and the assets that the trustee will be most likely to look for, include the following: (1) cash, (2) bank accounts, (3) prepaid rent, (4) landlord and utility deposits, (5) accrued earnings and benefits, and (6) tax refunds.

It is usually advantageous for the debtor to take steps to insure that the value of each of these assets is as low as possible on the day and hour that the Chapter 7 case is filed. By doing this the debtor will not be cheating or acting illegally; the debtor will simply be using the law to his or her advantage, much the same as a person who takes advantage of loopholes in the tax laws.

Cash. If possible, the debtor should have no cash on hand when the Chapter 7 case is filed. Further, if the debtor has received cash or the equivalent of cash in the form of a paycheck or the closing of a bank account shortly before the filing of the case, the debtor should obtain receipts when disposing of the funds in order to prove to the trustee and the court that the funds were disposed of prior to the filing of the case. Money possessed by the debtor shortly before the filing of the Chapter 7 case, may be spent on such items as food and groceries, the Chapter 7 filing fee, the attorney's fee in the Chapter 7 case, and the payment of \$600 to creditors whom the debtor intends to continue paying after the filing of the Chapter 7 case. Payments should not be made to friends or relatives, however, as the trustee may later recover these payments.

Bank Accounts. The best practice is to close out all bank accounts before filing under Chapter 7. If a bank account is not closed, the balance of the account should be as close to zero as the bank will allow and all out-standing checks must clear the account before the case is filed. If the debtor has written a check to someone for, say, \$50 and if the check has not cleared the account when the case is filed, the \$50 in the account to cover the outstanding check will be deemed an asset of the debtor and will have to be paid to the trustee.

Prepaid Rent. If the debtor's rent is paid on the first day of the month and if the debtor's Chapter 7 case is filed on the tenth day of the month, the portion of the rent covering the last 20 days of the month, if not exempt, will be deemed an asset of the debtor and will later have to be paid to the trustee. If possible, the debtor should make arrangements with the landlord to pay rent only through the date that the case is to be filed and to pay the balance of the rent from funds acquired after the case is filed. If this is not possible, the case should be filed near the end of the rent period.

Landlord and Utility Deposits. Unless they are exempt, the debtor may attempt to obtain the refund of all landlord and utility deposits before filing a Chapter 7 case. Otherwise, the deposits, or their cash equivalents, will have to be paid to the trustee.

Accrued Earnings and Benefits. In most states, and under the federal law, only a certain percentage (usually 75%) of a debtor's earnings are exempt. Therefore, the trustee may be allowed to take the nonexempt portion (usually 25%) of any accrued and unpaid wages, salary, commissions, vacation pay, sick leave pay, and other accrued and nonexempt employee benefits. Normally, then, the best time to file a Chapter 7 case is the morning after payday. Even then, if the pay period does not end on payday, the debtor may have accrued earnings

unless special arrangements are made with the employer. If annual leave or vacation pay is convertible to cash, it should be collected by the debtor before the Chapter 7 case is filed, as should any other nonexempt employee benefits that are convertible to cash.

Tax Refunds. In most states, a tax refund is nonexempt and becomes the property of the trustee if it has not been received by the debtor prior to the filing of a Chapter 7 case. Therefore, if the debtor is scheduled to receive a tax refund, a Chapter 7 case should not be filed until after the refund has been received and disposed of. Even if the case is filed before the end of the tax year, if the debtor later receives a refund, the trustee may be entitled to the portion of the refund earned prior to the filing of the case. The best practice, then, is to either file the Chapter 7 case early in the tax year (but after the refund from the previous year has been received) or make arrangements to insure that there will be not tax refund for that year.

10. How long does a Chapter 7 case last?

A Chapter 7 case begins with the filing of the case and ends with the closing of the case by the court. If the debtor has no nonexempt assets for the trustee to collect, the case will most likely be closed shortly after the debtor receives his or her discharge, which is usually four months after the case is filed. If the debtor has nonexempt assets for the trustee to collect, the length of the case will depend on how long it takes the trustee to collect the assets and perform his or her other duties in the case. Most consumer cases with assets last about six months, but some last considerably longer.

11. What should a person do if a creditor later attempts to collect a debt that was discharged under Chapter 7?

When a Chapter 7 discharge is granted, the court enters an order prohibiting the debtor's creditors from later attempting to collect any discharged debt from the debtor. Any creditor who violates this court order may be held in contempt of court and may be liable to the debtor in damages. If a creditor later attempts to collect a discharged debt from the debtor, the debtor should give the creditor a copy of the order of discharge and inform the creditor in writing that the debt has been discharged under Chapter 7. If the creditor persists, the debtor should contact an attorney. If a creditor files a lawsuit against the debtor on a discharged debt, it is important not to ignore the matter, because even though a judgment entered against the debtor on a discharged debt can later be voided, voiding the judgment may require the services of an attorney, which could be costly to the debtor.



FILING CHECK LIST

- ☐ Pro Bono Representation Cover Sheet
- ☐ Voluntary Petition
- ☐ Attorney's Statement of Compensation
- ☐ Notice of Other Available Chapters
- ☐ Schedule A - Real Property
- ☐ Schedule B - Personal Property
- ☐ Schedule C - Property Claimed as Exempt by Debtor
- ☐ Schedule D - Creditors Holding Secured Claims
- ☐ Schedule E - Creditors Holding Unsecured Priority Claims
- ☐ Schedule F - Creditors Holding Unsecured Priority Claims
- ☐ Schedule G - Executory Contracts and unexpired Leases
- ☐ Schedule H - Co-Debtors
- ☐ Schedule I - Current Income of Individual Debtor(s)
- ☐ Schedule J - Current Expenses of Individual Debtor(s)
- ☐ Statement of Financial Affairs
- ☐ Individual Statement of Intention
- ☐ Summary of Schedules
- ☐ List of Creditors and Creditor Matrix
- ☐ Unsworn Declaration Concerning Debtor's Schedules
- ☐ Filing Fee

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

In the matter of	:	Case No.
	:	Chapter:
Debtor(s)	:	

NOTICE OF PRO BONO SERVICES

PLEASE TAKE NOTICE that _____, Esquire hereby enters his/her appearance on a pro bono basis on behalf of _____. All copies of notices and pleadings filed in this case or proceedings therein, including but not limited to notices provided pursuant to Fed. R. Bankr. P. 2002, should be sent to the addresses listed below:

(Attorney) _____	Rutgers Bankruptcy Pro Bono Project
(Firm) _____	Rutgers University School of Law - Camden
(Address) _____	217 N. 5 th Street
_____	Camden, New Jersey 08102

Date:	_____
	Attorney (Pro Bono)

	Attorney ID Number

RUTGERS BANKRUPTCY PROBONO PROJECT
STUDENT EVALUATION

Each student is required to fill out this form for each client interview they participate in or observe. All information provided will be kept CONFIDENTIAL. The only people who will have access to these forms are the Supervising Attorney and the Pro Bono Project Coordinator. Please feel free to add additional comments.

Your Name: _____
Attorney's Name: _____
Client's Name: _____
Date of Interview: _____

1. Who conducted the interview? If more than one person, who did what? What do you feel you added to the interviewing process? Now that the initial interview has been completed, what are the next steps in your case and who will be doing what?

2. What was your impression of the attorney that you worked with? If you had the option to work with this attorney again, would you want to, why or why not?

3. What do you like about the program? What do you dislike about the program? Assuming that you had to change this program, what changes would you implement?

4. Are there any questions to which you would like a personal response? If so, what is the question? All responses will be placed in your mail folder, unless you specify otherwise.
